

State plan or State practice in the Medicaid program is not in compliance with Federal requirements.

(b) Nothing in this subpart is intended to preclude or limit negotiations between CMS and the State, whether before, during, or after the hearing to resolve the issues that are, or otherwise would be, considered at the hearing. Such negotiations and resolution of issues are not part of the hearing, and are not governed by the rules in this subpart except as expressly provided.

#### § 430.62 Records to be public.

All pleadings, correspondence, exhibits, transcripts of testimony, exceptions, briefs, decisions, and other documents filed in the docket in any proceeding may be inspected and copied in the office of the CMS Docket Clerk. Inquiries may be made to the Docket Clerk, Hearing Staff, Bureau of Eligibility, Reimbursement and Coverage, 300 East High Rise, 6325 Security Boulevard, Baltimore, Maryland, 21207. Telephone: (301) 594-8261.

#### § 430.63 Filing and service of papers.

(a) *Filing.* All papers in the proceedings are filed with the CMS Docket Clerk, in an original and two copies. Originals only of exhibits and transcripts of testimony need be filed.

(b) *Service.* All papers in the proceedings are served on all parties by personal delivery or by mail. Service on the party's designated attorney is considered service upon the party.

#### § 430.64 Suspension of rules.

Upon notice to all parties, the Administrator or the presiding officer may modify or waive any rule in this subpart upon determination that no party will be unduly prejudiced and the ends of justice will thereby be served.

#### § 430.66 Designation of presiding officer for hearing.

(a) The presiding officer at a hearing is the Administrator or his designee.

(b) The designation of the presiding officer is in writing. A copy of the designation is served on all parties.

#### § 430.70 Notice of hearing or opportunity for hearing.

The Administrator mails the State a notice of hearing or opportunity for hearing that—

(a) Specifies the time and place for the hearing;

(b) Specifies the issues that will be considered;

(c) Identifies the presiding officer; and

(d) Is published in the FEDERAL REGISTER.

#### § 430.72 Time and place of hearing.

(a) *Time.* The hearing is scheduled not less than 30 nor more than 60 days after the date of notice to the State. The scheduled date may be changed by written agreement between CMS and the State.

(b) *Place.* The hearing is conducted in the city in which the CMS regional office is located or in another place fixed by the presiding officer in light of the circumstances of the case, with due regard for the convenience and necessity of the parties or their representatives.

#### § 430.74 Issues at hearing.

The list of issues specified in the notice of hearing may be augmented or reduced as provided in this section.

(a) *Additional issues.* (1) Before a hearing under § 430.35, the Administrator may send written notice to the State listing additional issues to be considered at the hearing. That notice is published in the FEDERAL REGISTER.

(2) If the notice of additional issues is furnished to the State less than 20 days before the scheduled hearing date, postponement is granted if requested by the State or any other party. The new date may be 20 days after the date of the notice, or a later date agreed to by the presiding officer.

(b) *New or modified issues.* If, as a result of negotiations between CMS and the State, the submittal of plan amendment, a change in the State program, or other actions by the State, any issue is resolved in whole or in part, but new or modified issues are presented, as specified by the presiding officer, the hearing proceeds on the new or modified issues.